

**ECONOMIC DEVELOPMENT & ENERGY COMMITTEE
of the
SUFFOLK COUNTY LEGISLATURE**

Minutes

A regular meeting of the Economic Development & Energy Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, Veterans Memorial Highway, Smithtown, New York, on **September 9, 2002**.

MEMBERS PRESENT:

Legislator Jon Cooper - Chairperson
Legislator Fred Towle - Vice Chairperson
Legislator Allan Binder
Legislator Vivian Fisher
Legislator George Guldi

ALSO IN ATTENDANCE:

Paul Sabatino, II - Counsel to the Legislature
Barbara LoMoriello - Chief Aide to Legislator Cooper
Eben Bronfman - Aide to Legislator Guldi
Tim Motz - Democratic Caucus Aide
B.J. McCarton - Presiding Officer's Office
Lori Ann Taggart - County Executive's Office
Nicole DeAngelo - County Executive's Office
Patrick Heaney - Town of Southampton Supervisor
Carolyn Fahey - Suffolk County Economic Development
Vincent Frigeria - Keyspan
Chuck Skinner - Parks Department
David Grier - Department of Law
Louise Stalzer - Director, Peconic Community Council
Other interest parties

MINUTES TAKEN BY:

Ana Grande - Court Stenographer

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(The meeting came to order at 10:45 A.M.)

CHAIRMAN COOPER:

I'd like to welcome everyone to the September 9th meeting of the Economic Development and Energy Committee.

Legislator Guldi, if you can lead us in the pledge, please.

(SALUTATION)

CHAIRMAN COOPER:

Before we move to the agenda, we have several speakers on the same resolution, I.R. 1903. I.R. 1903-02 (P) - Adopting Local Law No. -2002, A Local Law amending the designation of an Empire Zone. (County Executive)

CHAIRMAN COOPER:

First we have Lori Taggart, Assistant to the County Executive.

MS. TAGGART:

Mr. Chairman, thank you. I'm just here basically to answer any outstanding questions that you may have. I hope that you got an opportunity to read the executive summary that I sent out and I also have with me here today Supervisor Skip Heaney from the Town of Southampton. And there are representatives from the Town of Riverhead on their way.

LEG. FISHER:

Mr. Chair, I believe that the questions that arose at the legislative meeting in Riverhead were regarding the impact on the towns and the, and the communication between the County Executive's Office and the Town of Riverhead in particular. I believe that was where the question came up. There were people from Riverhead Town who came to speak.

MS. TAGGART:

There were people from the Flanders area --

LEG. FISHER:

Yes.

MS. TAGGART:

-- that were there to speak, yes. And I guess the way to answer that is that the Town of Southampton does have to pass a resolution accepting the Empire Zone designation within their township. They do not require a public hearing and they have not had the resolution on the table yet. That's probably why the residents may not have heard about it.

LEG. FISHER:

And what about the town of Riverhead?

MS. TAGGART:

The Town of Riverhead has been working with us throughout the whole process. The town Board has been with us together, because it is a joint, it's a joint zone.

LEG. FISHER:

Right.

MS. TAGGART:

It's a joint County and Town of Riverhead zone.

LEG. FISHER:

Yes.

MS. TAGGART:

So anything that the County proposes to do to the zone, the Town has to agree and approve and vice versa.

LEG. FISHER:

Yes. Well, I think you had made that clear.

MS. TAGGART:

Yeah.

LEG. FISHER:

When you came to our committee meeting, however, when the members of the public spoke that evening --

MS. TAGGART:

Right.

LEG. FISHER:

-- there was some question as to how much participation there had been --

MS. TAGGART:

Right.

LEG. FISHER:

-- with the two towns that were affected.

MS. TAGGART:

And I wasn't able to go and respond to that. And the Town of Riverhead at this point has held their public hearing.

LEG. FISHER:

When was their public hearing held, Lori?

MS. TAGGART:

September 3rd.

LEG. FISHER:

September 3rd, okay. And there's a resolution that has been put in place by Riverhead Town?

MS. TAGGART:

Yes.

LEG. FISHER:

And when will the Town --

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MS. TAGGART:

I'm sorry, it has been put in place, it will be eligible to be voted upon September 17 at the Town level, which is their next Town Board meeting.

LEG. FISHER:

So the two towns will have resolutions?

MS. TAGGART:

Yes. That's a part of state law, that it's a requirement of this boundary revision process.

LEG. FISHER:

Okay. And when will the other resolution be voted on?

MS. TAGGART:

The town of Riverhead's will be voted on September 17, and I'm not sure about the Town of Southampton. They don't need a public hearing, so they can do it at any meeting.

LEG. FISHER:

Well, the Supervisor is here.

CHAIRMAN COOPER:

Lori, I think there was also a question that was raised as to whether the new empire zone area qualified as an economically depressed area. Just for the record, would you like to address that?

MS. TAGGART:

Sure. The Suffolk County zone at Calverton was approved by New York State under a different set of requirements. We, we qualified because it was a closed defense facility and that is a separate requirement. Most -- the other two zones in Suffolk County, the Town of Brookhaven and the Town of Islip zones, were approved based on census track information. And their unemployment rate and their poverty rates had to meet certain specifications.

We are not bound by those same specifications, because of the way that we were approved by our zoning initially, which was the closed defense facility.

CHAIRMAN COOPER:

And, Lori, just in case this issue does arise again at the legislative session, do you have anything in writing that supports --

MS. TAGGART:

I have the General Municipal Law that states it.

CHAIRMAN COOPER:

If you could forward a copy of that, please ?

MS. TAGGART:

Sure, absolutely.

CHAIRMAN COOPER:

Legislator Towle.

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LEG. TOWLE:

Lori, I have a question. Even though the towns have their own empire zones, can we do anything within the towns or we're prohibited from doing that I guess because they have their own zones, how does that work?

MS. TAGGART:

You mean the County, can we do something?

LEG. TOWLE:

Yes.

MS. TAGGART:

Anything that we do, because it is a County wide zone, anything could, could be done in any part of Suffolk County. But because ours is a joint zone, anything that we do would have to be approved by the Town Board of the Town of Riverhead, just like anything they wanted to do would need to be approved by the Suffolk County Legislature.

LEG. TOWLE:

So if we wanted to do something let's hypothetically say in the Town of Brookhaven for a second, would we need Brookhaven Town Board's approval or could we do that on our own since they have their own zone?

MS. TAGGART:

They would have to accept the zone.

LEG. TOWLE:

Okay.

MS. TAGGART:

Just like Southampton is doing, you to pass a resolution accepting.

LEG. TOWLE:
Thanks.

LEG. GULDI:
I have a quick question.

CHAIRMAN COOPER:
Legislator Guldi.

LEG. GULDI:
Like I need this. The point you just made, a point of clarification, you said that this is -- since this is a Riverhead zone, Riverhead will have to approve jointly any activity. Will that still apply to the sections in Southampton or will Southampton have sole or joint jurisdiction there with the County?

MS. TAGGART:
The current Zone Administration Board will be overseeing all of the zone in the Town of Southampton, Grumman and downtown Riverhead, that's made up of specific representatives that are outlined in the law.

For instance, we have a Keyspan representative on our Board, we have

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an education representative from Labor and so on and so forth. The Board will be overseeing all of the zoning and that won't change. Does that --

LEG. GULDI:
Yeah. What's the -- what's -- yes, that does, that does material very much the extent and nature of their oversight. What's the level and what approvals are required from them, what's the procedure for obtaining those?

MS. TAGGART:
For the boundary revision?

LEG. GULDI:
No. For activities within the zone?

MS. TAGGART:
Well, the Zone Administration Board basically oversees our zone coordinator, who is in charge of certifying businesses that may be eligible for zone benefits. She will be doing that in the Town of Southampton and the Town of Riverhead.

LEG. GULDI:
Okay. So let's assume that the -- not particularly, let's assume that

the zone, a non-qualifying business wanted to do business in the zone, does the Zone Board have any jurisdiction over that?

MS. TAGGART:

No.

LEG. GULDI:

Okay.

MS. TAGGART:

We oversee the --

LEG. GULDI:

Certification only?

MS. TAGGART:

Certification. The reporting requirements to New York State, the marketing of the zone, that type of thing.

LEG. GULDI:

Okay. But not land use, not building?

MS. TAGGART:

No.

LEG. GULDI:

Not non-qualifying activities?

MS. TAGGART:

No.

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LEG. GULDI:

Et cetera.

MS. TAGGART:

No. Zoning remains an issue at the town level only.

LEG. GULDI:

Okay. Thank you.

CHAIRMAN COOPER:

Thank you very much, Lori.

MS. TAGGART:

Okay.

CHAIRMAN COOPER:

I'd next like to invite up Joey MacLellan.

LEG. GULDI:

Can I suggest, why don't we ask Supervisor Heaney and Mr. MacLellan to join us at the table, and actually maybe Lori can stay there, since the questions seem to be bouncing around.

CHAIRMAN COOPER:

Sure.

LEG. GULDI:

Sit down. You have to share the mikes.

MR. MACLELLAN:

The County of Suffolk can't have three mikes.

MR. HEANEY:

If we can share a river, we can share a mike.

MR. HEANEY:

Good morning, everyone. Patrick Heaney, the Supervisor of the Town of Southampton. I was asked to appear here this morning to make myself available to address any lingering questions that there might be from members of the Committee concerning public input into the planning process for a maritime plan development district along the river front.

I have been made aware of the fact that some residents from an adjoining community, not the host community, actually turned out and indicated the fact that they had no knowledge of this project. That said -- despite the fact the evening before they appeared at the public hearing, their own civic association held a meeting with the developer to go over the latest duration for the plan development district.

This proposal is actually cited in the Hamlet of Riverside, which is a mostly African-American community in the Town of Southampton. A community that has been sorely neglected for decades and, in fact, because of that, the Town has made a concerted effort to come up with revitalization strategies for the community.

It has the highest tax burden proportionate to land values anywhere else in the Town, it has the highest crime rate. It has the most severe problems with drugs.

The Town has worked with New York State to locate a state police barracks in the community as a public safety anchor. We have worked with the County to try to acquire a dilapidated building, commonly known as the Tire Craft property, which is right on the Peconic River for purposes of demolition so that we can get rid of an eyesore and

actually help to restore what was once a very attractive Grangebil Park as a gateway into two towns, the Town of Riverhead and the Town of Southampton.

Let me get to the specifics with regard to public input. This proposal for a maritime plan district has its genesis in, in a Southampton Town master planning comprehensive plan update that began about 1995. It was a plan that involved a number of consultants and just about any and every community group throughout the town.

One of the specific recommendations that came forward and was adopted in the Town's comprehensive plan update when it was adopted in 1999 for this Riverside community, was the idea that we should promote a maritime plan development district, a hotel and marina use and other border dependant or enhances uses on the waterfront as a revitalization strategy.

There's been copious amounts of public input into that process and I'm here just to assure the members of the Legislature that, in fact, that is the case.

Specifically in terms of Dede Gotthelf, Dede has met several times with members of the African-American community in Riverside. Part of her project actually wraps around a local church and she has met with anywhere from seventy to a hundred people on more than one occasion to review her project and has won, you know, the universal support in that community for her project.

People want desperately to see revitalization. I will tell you that as the Supervisor I've had probably a dozen or more community meetings, meetings in people's homes, meetings in a local church and nutritional buildings to hear from residents in this community and what they desperately want is for the town to assist them and provide some economic support to provide increased police protection and to help improve the quality of life that other residents in the Town of Southampton and neighborhood Riverhead enjoy.

I'm here to let you know that we've been doing our due diligence. This has not been a top-down planning effort, this has been a bottom-up planning effort. I just wanted to give those assurances to anyone who has those doubts.

CHAIRMAN COOPER:
Legislator Fisher?

LEG. FISHER:
Yes. Thank you for coming today. Have you spoken with that civic

group since our Legislative meeting and what has come of those discussions?

MR. HEANEY:

You I think heard from residents in Flanders, which is a community about two miles to the east of the Riverside community and in particular this location of the proposal, we meet with them on a regular basis. In fact, I think last week we had another meeting with not just that homeowners' association, but an adjoining homeowners' association in a continuing effort to refine a Riverside/Flanders Hamlet study. It's a project that we've undertaken with the community as early as April of this year. So I'm quite stunned that anyone could get up and say that they have had no knowledge of this.

I would also tell you that the Newsday has reported on this, Long Island Business News has reported on this, certainly the Riverhead weeklies have reported on it. The Town of Southampton weeklies have all reported on it and indeed the civic associations who have newsletters have reported to their own membership. So it was somewhat unsettling for me to hear after the fact that --

LEG. FISHER:

Okay. That being said, you're always going to have people who are unaware of things going on.

MR. HEANEY:

That's true. My point here is that the Town of Southampton --

LEG. FISHER:

My question is has there been a subsequent conversation with the people who have issues, has it been clarified, are they on board, is there support now that they do know what's going on?

MR. HEANEY:

I can't answer as to --

LEG. FISHER:

So you haven't met with the individual?

MR. HEANEY:

The individual, I know who the individual is, I have not met with the individual.

LEG. FISHER:

Okay.

MR. HEANEY:

No.

LEG. FISHER:

So that person --

MR. HEANEY:

I think we have done our due diligence. We met with the affected community. I think that we have certainly outreached to our neighboring Town of Riverhead. We are attempting to address what is

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really, you know, a community crying out for assistance and I think that that's our public policy goal is to assist those people.

We will always have someone or two or more who will oppose the best of intentions.

MS. TAGGART:

I just wanted to let you know our zone coordinator did have a telephone conversation last week with that woman Monday who was at the public hearing to help her understand what the program was all about and the process that we were going through.

LEG. FISHER:

Okay. Because we do like to address questions when people come before us. We try to give them a forum where they can have a dialogue with someone to understand what the process is.

MS. TAGGART:

We provided her the phone number at that public hearing afterwards and there was a conversation.

LEG. FISHER:

Good. Thank you, Lori.

CHAIRMAN COOPER:

Any other questions?

MR. MACLELLAN:

Just, Mr. Chairman, I just wanted to from the town of Riverhead's point of view, we have been working for a lot of years to regenerate and redevelop downtown Riverhead specifically. When Southampton first started to talking to the Town of Riverhead about this project, almost to a person, people in Riverhead jumped on to this including the downtown business improvement district, because if something negative happens across the river, it effects our side of the river. If something positive happens across the river, it effects our side of the river, just as it does from our side to their side.

This -- what Southampton is planning, will, is, would be an extension of once upon time Grangebil Park was visited by people from as far as Manhattan just to see how beautifully the park was laid out. What

we're trying to do in the Town of Riverhead is restore that. And what Southampton is talking about doing is now enhancing that and continue it down the river.

We not only share a river with Southampton Town, we share a school district. And for a long time the school district has been financially taxed, because of not just Riverside's underdevelopment or lack of tax base, but certainly in portions of Riverhead. But the Riverside area is a large portion that does not have a tax base within the school district. This would change that significantly and also help the residents in that area as well.

The Town of Riverhead supports this project seriously and asks that this Committee do the same.

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CHAIRMAN COOPER:

Thank you.

MR. HEANEY:

I wonder if I might just flesh out a little further. Indeed with regard to tax base, approximately eighty-four percent of the land mass in this area has been removed from the tax rolls for preservation purposes. Most of what remains is a residential base, so it's residents that carry the full burden of the property taxes and the school district taxes.

Mr. MacLellan is perfectly correct that attracting a minimum of a twenty million dollar proposal to the river front not only revitalizes, helps to revitalize the surrounding community, but provides a very significant tax rate to the school district, which is a relief valve for some of the poorest people in my area of the town who happen to be located within the Riverhead Central School District.

LEG. FISHER:

Thank you. That was pointed out.

LEG. GULDI:

I have a question. The Supervisor, or actually Lori may be better able to develop this. I share -- I understand the, the tax structure in the community there and in the Riverside community, even in the border of Flanders, I think it was Northampton or Wildwood community, that whole section of town, the Empire State Zone, one of its primary features is real property tax abatement for the development. Is that not true?

MS. TAGGART:

In Dee Dee's particular instance, if Dede were to build a development in that location, what she would be receiving, because she's a brand

new business to New York State, she would be receiving a real property tax credit against her corporate tax liability. So she will be paying her Town of Southampton tax bill.

LEG. GULDI:

Well, the corporate credit versus a deduction.

MS. TAGGART:

Right.

LEG. GULDI:

So the incentive is in the credit, but the town, but the revenue for the, for the property taxes will flow to the County, town and school district, most importantly.

MS. TAGGART:

That's correct.

LEG. GULDI:

So the tax benefit is, is essentially a credit against corporate tax.

MS. TAGGART:

Right.

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LEG. GULDI:

And that phases out over a period of ten years, am I correct?

MS. TAGGART:

Yes.

LEG. GULDI:

Okay. So the school district will be getting revenue in year one of any new construction under this Empire State Zone?

MS. TAGGART:

Yes. In the Riverside area, yes.

LEG. GULDI:

Okay. Legislator Cooper earlier asked you to forward him the municipal, General Municipal Law under which the Empire State zone was created. What I would like to see between now and Tuesday, since I've been supporting this resolution all along and I think my fellow committee members seem to be based on the questions that we're predisposed to do that or disposed to do that, the government's documents and restrictions in terms of this Board and what it's, how it's constituted and what it's authority is, I'd like those documents routed to me at my district office.

MS. TAGGART:

Okay.

LEG. GULDI:

Trailer. As soon as possible so that I can review them before the Tuesday meeting.

MS. TAGGART:

Absolutely.

LEG. FISHER:

I'd like to see those government documents as well, Lori.

MS. TAGGART:

I believe --

LEG. FISHER:

The composition of the Board.

MS. TAGGART:

-- I believe that's actually outlined in the General Municipal Law, but if not --

LEG. GULDI:

-- I want to know the who and the particulars and I want to see the documents. I mean I've got a back-up of the narrative that's next to the bill, I want to see the details. Forgive me for doing that.

I'll make a motion to take this out of order and approve it.

CHAIRMAN COOPER:

Sure. That's fine. Before we vote, I'm under the assumption that

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this will be approved, you may want to consider coming out to the next Legislature meeting, because I'm concerned that the same questions may arise once again.

So we will take out of order I.R. 1903, a Local Law amending the designation of an Empire Zone. I'll make a motion to approve.

LEG. GULDI:

I think it's 1971.

LEG. FISHER:

It's 1903. Second the motion.

CHAIRMAN COOPER:

All those in favor? Opposed? I.R. 1903 is approved. Thank you very

much for coming down. (VOTE: 5 -0-0-1) APPROVED

MS. TAGGART:
Thank you.

MR. MACLELLAN:
Thank you.

LEG. FISHER:
So we'll see what happens Tuesday.

CHAIRMAN COOPER:
Next time is a charm.

MR. MACLELLAN:
And thank you for inviting us back to your next meeting.

LEG. TOWLE:
We'll have lunch.

CHAIRMAN COOPER:
Okay. Now we'll back up a bit and do I.R. 1879.
I.R. 1879-02 (P) Amending the 2002 Capital Budget & Program and appropriating funds in connection with the relocation of Long Island Power Authority (LIPA) facilities on Suffolk County construction projects (CP 5000). (County Executive)

CHAIRMAN COOPER:
These are tabled resolutions. Amending the 2002 Capital Budget & Program and appropriating funds in connection with the relocation of LIPA facilities on Suffolk County construction projects. Is there a motion?

LEG. TOWLE:
I'll make a motion to table, but I also have a question. Legislator Guldi, you were not at the last meeting and we had a little bit of an ongoing debate about this, this was the funding necessary to I guess approve the placement of LIPA poles and/or cables or movement of such, prior to our lawsuit.

In that proposal they were also adding a hundred and seventy-five

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thousand dollars to hire a consultant to determine whether or not the fees that LIPA was charging us were accurate. Of course, we've never had this consultant on board before or during the negotiations in which the Department of Public Works decided to arbitrarily on their own, without us, decided to pay fifty percent. But it was also said to us that day that you had requested the consultant, which came to a

hundred and seventy-five thousand dollars.

LEG. GULDI:
Well --

LEG. TOWLE:
I didn't recollect it, so I figured I'd give you an opportunity to address that today.

LEG. GULDI:
Thank you. Let's talk about the consultant. I did have a meeting with the Commissioner of Public Works in which we discussed technical requirements for, at the training background and experience to evaluate and assess the, the ordinary, usual propriety costs and et cetera of power distribution, generation, or power distribution, relocation expenses.

And one of the things that the Commissioner pointed out to me is that we have no personnel who have the experience and expertise in order to fulfill that function and that since a, the need for such services would not be continuous, it would be intermittent, on a project by project basis. I mean we have a capital budget before us with a certain number of projects, that the use of a consultant would be both necessary and appropriate.

We did not discuss, however, any dollar amount. The hundred seventy-five thousand dollar figure for hiring a consultant whose services -- I think the question I have is for one year, I mean the only, the only pause I have is with the number. I don't think, you know, one of the things we did discuss vis-a-vis the consultant is whether or not we would have sufficient need at a cost break point to hire someone full-time to perform those services.

And the certain -- and I distinctly remember telling the Commissioner that at the point of which the expense of hiring consultants would exceed the amount that it would cost us to hire someone full-time to perform these functions or any other functions, we should obviously staff. But I have no idea where the one seventy-five thousand came from.

And Mr. Grier is here. We did have some discussion about this, because I think it's -- could you come forward, because I want to know where the one seventy-five came from or what the consultant retention procedure contemplated here, because while I'm concerned with the figure, I'm also concerned by the fact that without the appropriation for the relocation expenses subject to the reservation that you and I sponsored and we adopted at the last meeting, these projects cannot go forward. And by definition, a Public Works project is a Public Safety project, because, you know, most of our Public Works projects are designed to enhance the safety of our roadways.

I'm concerned that the lack of going forward with this does create a public safety concern.

LEG. TOWLE:

Mr. Guldi, if you would, before Mr. Grier spoke, I brought that point up at the last meeting and I asked the County Executive, the staff to remove the hundred and seventy-five thousand dollars so we could at least move forward with the projects. At that point we were informed that the reason it was in there was at your request, which, as I said, I didn't recollect that, but it's always possible you could have done something out the Committee process.

And the second thing is the number we were given, the one seventy-five, before Mr. Grier addresses that, was an estimate, it could be more and it could be less. And I'm more concerned with the more than I am about the less.

LEG. GULDI:

Actually I'm concerned about the one seventy-five too.

LEG. TOWLE:

Yeah.

LEG. GULDI:

Because it seems an annual basis to be out of proportion with what it should be.

LEG. TOWLE:

The last point as I mentioned to the Commissioner at the Committee meeting and at the full Legislature meeting, in light of all the retirements, I would just as soon come up with some positions that could deal with such projects such as this and other things that the department is doing as far as Capital Programs are concerned to deal with their backlog, to deal with billing, to deal with review.

We did two million dollars in change orders in the last twelve months, why is that happening?

LEG. GULDI:

Yeah.

LEG. TOWLE:

And I'd rather put staff on board with this hundred and seventy-five thousand dollars. We can hire three people.

LEG. GULDI:

Yeah.

LEG. TOWLE:

At fifty thousand dollars a year.

LEG. GULDI:

Yeah, but for those -- for fifty thousand dollars a year you're not going to get a person who is going to have the ability to do the work that's required here, number one. And number two, the skills and experience and specialty here to the extent that this individual's

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full time and services wouldn't be required for that, would put them into areas where they probably, may or may not have the expertise.

So I think that a consultant may be the way to go for this work, notwithstanding the fact that our sheer concerns, line for line, item for item, with respect to DPW and staffing, this is, this is an extraordinarily specialized section of power, you know, portion of professional engineering and the individual who we need to do this isn't going to be just a licensed professional engineer, but someone who also has the cost analysis and audit backgrounds or perhaps a team of cost analysis audit backgrounds and engineering in order to be able to evaluate and review the documentation we've been getting.

LEG. TOWLE:

Your thoughts are quite accurate. Maybe one of the things that the Commissioner ought to be looking at is a Deputy Commissioner in charge of budget issues, similar to what the Police Department has, similar to what the Health Department has, similar to what the Department of Social Services has, and get a person in the field that's obviously a professional engineer, but also someone that has some type of accounting background and monetary background to monitor some of these projects.

I mean if we looked at projects in advance, there would be a lot less of these change orders that are not being seen by the Legislature at all. I mean two million dollars in taxpayer's funds were spent in the last twelve months without any of our knowledge and/or consent. And I just don't think that's, you know, that's appropriate.

Clearly there appears to be a lot of budgetary issues in that department and a lot of difficulties with projects getting completed on time and moving forward. You know, maybe that's something that's needed, even if it's a Civil Service position, but it may be similar to what's in Health and similar to what's in the Police Department and in Social Services.

LEG. GULDI:

Mr. Grier, where did the one seventy-five come from and why is it, why

does it have to be bundled in this bill other than perhaps the hope that it would slide by with the other things we requested?

MR. GRIER:

As far as the amount is concerned, that is an estimate that Public Works came up with because they don't know what it's going to cost and they do realize that it's going to be subject to an RFP, because we don't have anybody aboard, no estimates were gotten from other consultants to say, well, how much is this going to cost. I don't think we'd actually have to prepare a document and advertise it before they can award --

LEG. GULDI:

Is this going to be a multi-year cost or is this going to be a repetitive operating expense?

MR. GRIER:

That I'm not aware of, I'm not -- I don't know all the parameters of

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what Public Works put together in determining what the extra cost is going to be, I couldn't answer that question.

Could you repeat the second half of your question?

LEG. GULDI:

The second half of my question is why are we bundling the consultant to review this work separate from the appropriation? The appropriation bill, at one point Legislator Towle and I talked about putting in the appropriation bill alone. Why can't we unbundle the consultant RFP and expense issue from the -- let's go forward with our projects since the projects we're going to be going forward with are going to be projects that frankly we're litigating or we've already made a commitment to litigate, and obviously the retention of litigation consultants is going to be or should appropriately be out of, out of other existing accounts. We have accounts for that.

So I mean why do we need this, this bill now at all, the consultant RFP process, why isn't that a separate issue ?

MR. GRIER:

To be perfectly honest, conversations that were had at the June 25th meeting were that we wanted the estimates that were presented by Keyspan to be reviewed by a consultant to insure that we're not paying more than we should be based on the relocations that need to be undertaken.

LEG. GULDI:

But we already know that we are. We don't need a consultant for a

hundred and seventy-five thousand dollars, for a penny I'll tell you we are.

MR. GRIER:

Well, again, if it hadn't been at the request of this Legislature, it wouldn't be part of the project, part of the bill itself. However, it was at your request.

LEG. GULDI:

Let me ask you to do this then, can you amend this bill between now and Tuesday to take out the consultant retention and appropriation provision so that we can move forward with the funding for the Public Safety needs of the Capital Works Projects that are in various states of, of progress already? Yeah. Or could you present such an amendment bill by Sienna? I'll be glad to support it. I think the consultant issue needs to be addressed in more detail.

Legislator Towle's is concerned -- my primary concern is that the cost is way out of proportion with what it should be based on my understanding and analysis of the existing projects that need to be reviewed.

MR. GRIER:

However, if you take the consultant portion out of the bill, what you're left with is an appropriation, and if it's this bodies' decision that they these costs reviewed by someone less experienced, we haven't gained any time at all.

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LEG. GULDI:

We haven't gained any time, but we already also passed a resolution last week, which may or may not have been signed, saying that we're not going to settle this, we are going to litigate it, let's go start the litigation. Given that that's our stature, the consultant ought to be working for the County Attorney and not for DPW, in the first instance. And you and I both now that counsel privileges are important on that and that's exactly the way it should be done.

MR. GRIER:

Actually, in this particular case, the costs themselves are not relevant to the litigation itself. It's an issue of who is responsible for payment, that's what the lawsuit is all about, not what the costs are.

LEG. GULDI:

Well --

LEG. FISHER:

Wait a minute. We talked about --

LEG. GULDI:

Hold on.

LEG. FISHER:

We didn't say it wasn't important last time.

LEG. GULDI:

How can you -- how can you possibly litigate whether or not the, whose burden the costs are without litigating the amount of the costs without, without a review and appropriateness of the charges?

MR. GRIER:

Because it's really an issue of interpreting the LIPA Act and the relevant statutes as to who is responsible for the actual payment and the cost is ultimately --

LEG. GULDI:

So you mean that once, once the LIPA Act is, once we resolve the question of the LIPA Act, if we're on the hook, we're on the hook for whatever the, whatever there is under a bill for whether or not it represents either a reasonable value or work actually performed?

MR. GRIER:

No. The threshold question is who is responsible. And on that issue, if we are successful, then the -- what the costs are is irrelevant, it becomes an issue of if we are on the hook for it, then we have to, then we need the consultant, but initially we're paying the costs. If you want to insure that we're not paying unreasonable costs up front, we need the consultant now, not later down the road as we deal with the litigation.

LEG. GULDI:

The problem I have with that intellectual lead is that it is about money, period. It's not about, solely about whose money, whether it's rate payer money or taxpayer money, because that's the only two pots

in the universe we're talking about.

As I have discussed with you off the record repeatedly, part of my primary concern is the fact that this area of charge-backs is one which is subject to abuse. LIPA doesn't do this work. Keyspan doesn't do this work. They subcontract for it. The subcontractors write in a profit margin, Keyspan writes up the project for a profit-margin base above what they pay their subcontractor and LIPA is looking to pass the costs on to us.

Without an analysis of the real value of the work and its actual

performance, we're doing an academic exercise and there is no -- I mean, we're going to Court to seek a declaratory judgment and advisory opinion on that? I don't think so. I think we need to litigate the whole procedure. And I don't think that it's in the interest of the taxpayers to take such a narrow view of the question. The entire system needs to be analyzed and reviewed and that was the purpose or intent behind the the the position of, that was to be embodied in the resolution we adopted 18-0 last month.

MR. GRIER:

The resolution doesn't specifically talk about any costs at all, it just talks about the fact that we'll be getting reimbursement upon a judicial determination.

LEG. GULDI:

Yes, you're right. We didn't say that you have to when you analyze the costs to look at the thing entirely systematically, but I did not think for a moment that the County Attorney's Office would be taking such a wooden and narrow view.

LEG. BINDER:

I just want to say that what you're doing by taking it out now, it doesn't give us the opportunity to assess those costs before we start making payments on them. If you appropriate the funding, we can not start the project.

LEG. GULDI:

We're making payments without prejudice because of our litigation posture, in any event, it does not matter whether the analysis is done before or after, because the, LIPA is not going to relocate the stuff unless we pass, pay the bill that they have presented unless and until we get a Court order to the contrary. There is no logical, rational reason for asserting that the consultant RFP at a hundred and seventy-five thousand dollars needs to be put up front.

LEG. FISHER:

Motion to table.

CHAIRMAN COOPER:

Legislator Towle do you have something?

LEG. TOWLE:

Yes. Legislator Guldi, one of the points that was made by Mr. Grier was that we approve the money and we don't approve the consultant. I mean the reality is that they approve the money first. They had

agreed to the fifty percent deal before it even got to us, we didn't hire a consultant then, we had nobody in-house to look at the bills

then and we were prepared to go along and do this at --

LEG. GULDI:

Without even knowing how much it was going --

LEG. TOWLE:

Without any cost whatsoever. Then we raised the question, because they had to come to us for money. Then we filed the bill on the lawsuit, then they said no, they didn't agree to it. Commissioner Bartha told us at the last committee meeting that it was the County Executive's position to sue. I said, didn't you agree to this first, what do you mean it was your position to sue. I mean so, I mean we've been all over the map.

The bottom line is if the County Executive wants to approve this, I'm sure he can get an 18-0 vote on Tuesday if it excludes the consultant. If it leaves the consultant, then I'm sure the bill will stay in committee and rot.

MR. GRIER:

Let me just reiterate just so, you know it's, clear, the consultant would not have been included initially had it not been at the request of this Legislature. That's why it's in this bill.

LEG. BINDER:

Who --

MR. GRIER:

Legislator Guldi, we had private conversations --

LEG. GULDI:

I don't remember, I don't remember, I don't remember in the conversation in which Commissioner Bartha raised with me the needs for engaging a consultant instead of hiring personnel, my request it be included in the bill, we merely discussed, in fact, my observation was contrary, the point, the break-even point at which our costs are so high under a consultant, that it would be prudent to hire in-house personnel to perform this work. A hundred and seventy-five thousand dollars seems to be about twice that level.

MR. GRIER:

As I said, just to make it clear, no time prior to the June 25th meeting had anybody indicated that a consultant was necessary or looked into and it was under your reticence to approve any appropriation of funding that there not be a consultant on board to review the estimates, that's why it was included in this bill.

LEG. GULDI:

Okay. I understand that that's the position now. Now, I think we're making it clear, take it out of this bill, do the appropriations,

engage the consultant in connection with the litigation, because you need to. Okay?

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MR. GRIER:

All I can tell you is what had transpired and the reason the bill was filed the way it was is because of the direction of this Committee at the June 25th meeting. If you've changed your position, that's something else entirely, but --

LEG. GULDI:

I understand that that's your understanding of what our position was, that wasn't what we understood our position to be. Today we're making it clear that our position is do the appropriations, address the propriety of the appropriateness of the personnel to review these costs separately. Okay?

I apologize if there's anything that we said that created any other impression, but that's clearly my intention and my request.

Anybody on the Committee disagree with me?

LEG. BINDER:

Mr. Chairman.

CHAIRMAN COOPER:

Legislator Binder.

LEG. BINDER:

I think it's now clear, whatever wasn't clear is now clear. No one here wants that in the bill, no one on the Committee, we didn't think we wanted it. If it's out by Tuesday, it will pass. If it's not out by Tuesday, it will be here. So when the County Executive is ready to take it out, then we'll move it. That's it. I mean it's pretty clear. I think we're all preagreed over here.

CHAIRMAN COOPER:

We have a motion to table.

MR. SABATINO:

Can I just make one suggestion? I think in light of this discussion and the last meeting, it might be worthwhile to have an executive session with whoever is going to be doing the litigation, because I have a funny feeling the appropriation is not coinciding with the strategy and I think that something got lost in translation along the way. So I really think that you don't want to do the appropriation until you direct the strategy so that they're going to be one in the same.

LEG. GULDI:

Mr. Grier, could you come back, please. I mean I appreciate your frustration with this, but please try to understand we're in this together, we're trying to work together.

Counsel's suggestion is that we have an executive session, that we have an executive session with whoever is doing this litigation to talk out, to make sure we're all on the same page. I think it's a good suggestion, because I mean ultimately we are doing this together and we do need to address this issue. I still think that appropriately, that the consultant in-house, outside issue needs to be

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addressed, but it doesn't need to be mixed with this issue.

But, Counsel, could you tell us whether or not we could get counsel who is handling this litigation to come in for an executive session to discuss this whole thing globally, because it's fairly significant?

MR. GRIER:

I don't see that being an issue. I mean we already have commenced and served our papers. That was done at the end of July. So it's, you know, I don't know whether any answers have been filed yet, I would doubt it at this point.

LEG. GULDI:

Given that August is August.

MR. GRIER:

Excuse me?

LEG. GULDI:

Given that August is August, and adjournments.

MR. GRIER:

Are common.

LEG. GULDI:

Are common.

MR. GRIER:

Correct. I don't see that as being an issue. I think it would not be a problem to add to the next committee. If the Committee wanted to have that individual appear, just make the request to the County Attorney's Office.

LEG. GULDI:

I appreciate your chagrin and I understand where the issue got clouded. It didn't happen at committee, I think it really happened

with the result of the other conversations I had with the Commissioner. But you seem frustrated with the position of the Committee, do you understand where we are? Are you all right with it or do you feel that there's some sort of problem?

MR. GRIER:

It's a matter of frustration with the, for lack of better a word, conflicting communications and it raises, it sets an expectation of one thing and then when we've done so in trying to move the projects forward, we're told something else. So it's the frustration of clearly understanding what was expected and what was anticipated.

LEG. GULDI:

Okay. But are we clear now that -- are we clear, we would like the County Executive, we're going to request the County Executive to either amend this bill or present a C.N. to get this appropriation in place and get other projects moving. And I further request an exec. session to talk about the scope of the litigation in order to clarify that, because I think we need to, I think we need to coordinate that. Are you comfortable with both of those questions?

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MR. GRIER:

The County Executive's representative here will relay that issue. As far as the representative from my Department is concerned, if the Chairman would send a formal request to the County Attorney, he will arrange for that to occur.

LEG. GULDI:

Thank you very much.

MR. SABATINO:

I mean before the Legislature.

LEG. GULDI:

Okay.

MR. SABATINO:

What I was driving at is if you vote to appropriate the money on Tuesday night, whether it's in a corrected copy form, the current form or a C.N., I think before you do that you should know what you're doing, because I'm not clear as to what we're doing in terms of litigation strategy. I mean you need to know how it's all going to fit together, necessarily fit into what was discussed in an executive session of this group, but maybe it will all come together in front of the full Legislature so we know what we're doing.

MR. GRIER:

If you'd like to do an executive session on Tuesday's meeting, again,

just have the Chairman make a request.

LEG. GULDI:

We'll have the P.O. make the request.

MR. GRIER:

Contact the PO's office and that can be arranged.

LEG. GULDI:

Counsel's position is we should know that before we appropriate the money for the funds.

LEG. TOWLE:

Counsel, what I suggested to the Chairman is if we can call an executive committee at 2:30 on Tuesday during the public hearing, we can go into the conference room and get a briefing at that point since we'll all be there, if the full Legislature wants a briefing, I don't have a problem with that, but the Committee needs to know where it's going first before it gets to full Leg.

CHAIRMAN COOPER:

Why don't we do it two o'clock, I don't want to take the time away.

LEG. TOWLE:

Whatever is good for you.

CHAIRMAN COOPER:

Okay.

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LEG. FISHER:

Mr. Chair, regarding the frustration that Mr. Grier, to which Mr. Grier refers, I understood the Commissioner's frustration during the last meeting, thank you, when he attempted to clarify that a consultant was needed, that you needed someone with a high degree of expertise in order to establish the amount that would need to be spent and we, I made a specific suggestion regarding staffing.

And it's been mentioned again today a number of times that we're looking rather than to spend the money on consultants, because we spend, we spend a great deal of money on consultants in the Department of Public Works, and so we'd like to look at serious staffing. In fact, off the record after the meeting I spoke with Mr. Bartha regarding staffing and I know that it's an intermittent need to have this specific, very narrow field of expertise.

However, staffing should be considered very seriously by the Department of Public Works rather than having such great expenditures going to engineering consulting firms. So we'll address that position

again.

CHAIRMAN COOPER:

All right. We have a motion to table I.R. 1879. I'll second that motion. All those in favor? Opposed? I.R. 1879 is tabled. (VOTE: 5-0-0-0) TABLED

CHAIRMAN COOPER:

Moving on to Sense 50. SENSE 50-2002 - Memorializing Resolution requesting State of New York to cap carbon dioxide emissions from power plants. (Fisher)

CHAIRMAN COOPER:

Memorializing resolution requesting State of New York to cap carbon dioxide emissions from power plants. Legislator Fisher?

LEG. FISHER:

Mr. Chair, your Aide has distributed a memo that I had sent to Legislator -- to district offices, and in case you hadn't seen them, they have been redistributed by Barbara.

There was a question asking who was on the New York State Greenhouse Gas Task Force, and William Flynn from the New York State Energy Research Development Authority is the Chair and Ned Helme, President for The Center for Clean Air Policy.

The Governor had indicated that he was looking for an August completion of the recommendations for carbon caps. That hasn't been met. However, what we're looking for is a forty percent below 1990 levels by 2010. That's not unreasonable based on the ability to generate much cleaner energy in the power plants, the New York power plants that have been proposed and without any capping. If I could just -- Legislator Towle, I believe this was your question.

LEG. TOWLE:

Motion to approve.

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LEG. FISHER:

Thank you very much.

LEG. TOWLE:

I read the memo twice.

LEG. FISHER:

Thank you.

LEG. BINDER:

Are we supposed to use this as mailing?

LEG. FISHER:

This is what Legislator Cooper's office did for me here.

I appreciate the motion to approve, I'd like to second it.

CHAIRMAN COOPER:

We have a co-sponsor's bill, please. We have a motion to approve and a second. All those in favor? Opposed? Sense 50 is approved.

(VOTE: 5-0-0-0) APPROVED

CHAIRMAN COOPER:

Moving on to Procedural Motion 9. Procedural Motion 9 - Authorizing litigation against LIPA to recover County construction project utility costs. (Towle)

CHAIRMAN COOPER:

Authorizing litigation against LIPA to recover County construction project utility costs. Legislator Towle.

LEG. TOWLE:

In light of the fact that there is some hesitation that we may not be at the same point as far as legal strategy is concerned, I'm almost tempted to move this, but I'm also prepared to keep it in committee, but that way we would have both options before us if the executive session doesn't go on Tuesday and we don't believe the County Attorney's Office is going in the direction we want them to go in, we could then move this resolution in. Yeah, why don't we have motion to discharge.

LEG. GULDI:

Can I suggest, we can always make a motion to discharge after the executive session, there's no way we can finish at three o'clock.

CHAIRMAN COOPER:

Right.

LEG. TOWLE:

Whatever is the Committee's preference. I'm prepared to do whatever the Committee thinks is appropriate.

LEG. GULDI:

I'll make a motion to table.

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LEG. TOWLE:

Second.

LEG. BINDER:

For Tuesday.

LEG. GULDI:

Just make a motion to table. Tuesday, we can always move by discharge.

LEG. TOWLE:

That's fine with me.

CHAIRMAN COOPER:

We have a motion to table and second. All those in favor? Opposed? Procedural Motion 9 is tabled. (VOTE: 5 -0-0-0) TABLED

CHAIRMAN COOPER:

Moving on to I.R. 1971. I.R. 1971. (P) Support the Suffolk County Department of Economic Development's grant application to the Empire State Development Corporation for funding to assist with the redevelopment of the industrial park at Gabreski Airport (CP 5713). (County Executive)

CHAIRMAN COOPER:

Supporting the Suffolk County Department of Economic Development's grant application to the Empire State Development Corporation for funding to assist with the redevelopment of the industrial park at Gabreski Airport.

LEG. GULDI:

I'll make a motion to approve.

LEG. TOWLE:

I have a question.

CHAIRMAN COOPER:

Question?

LEG. TOWLE: Yes, question. Does this include Legislator Guldi's trailer?

LEG. GULDI:

No, no. The trailer which, I have to admit that the complaint that I got a trailer and then somebody else didn't get their trailer was my favorite.

LEG. BINDER:

The trailer is in the next resolution.

CHAIRMAN COOPER:

We have a motion --

LEG. GULDI:

This is, this would be for infrastructure and not related to the administrative --

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CHAIRMAN COOPER:

With that clarification, we have a motion to approve and a second.
All those in favor? Opposed? I.R. 1971 is approved. (VOTE: 5 -0-0-0)
APPROVED

CHAIRMAN COOPER:

I.R. 1977. I.R. 1977-02 (P) Amending the Capital Budget and Program and appropriating funds in connection with the renovation and construction of facilities at Francis Gabreski - demolition (CP 5702).
(County Executive)

CHAIRMAN COOPER:

Amending The Capital Budget and Program and appropriating funds in connection with the renovation and construction of facilities at Francis Gabreski at the request of the County Executive's Office.

LEG. GULDI:

I make a motion to table by myself.

CHAIRMAN COOPER:

I'll second that motion. All those in favor? Opposed? I.R. 1977 is tabled. (VOTE: 5-0-0-0) TABLED

CHAIRMAN COOPER:

Finally we have I.R. 1978. I.R. 1978-02 (P) Amending the 2002 Capital Budget and Program and appropriating funds in connection with the replacement of equipment: Landing Counter for Francis S. Gabreski Airport (CP 5732) (County Executive)

CHAIRMAN COOPER:

Amending the 2002 Capital Budget and Program and appropriating funds in connection with the replacement of equipment: Landing Counter for Francis Gabreski Airport. Is there a motion?

LEG. GULDI:

I'll make the motion to approve, and let me explain to my colleagues what a landing counter is.

LEG. TOWLE:

Second.

LEG. GULDI:

Second by Legislator Towle. This device is a video --

LEG. BINDER:

Is that where you land?

LEG. GULDI:

No, if you go to the land, you have to get off the ground first.

What the device would provide us with, since it is important that we understand this, is not only a video record of when and what aircraft operate at the airport twenty-four hours a day, to provide us with accurate takeoff and landing number of operation counts. It would also, it includes an automated billing system to bill for landing fees based on the identification numbers of those operating aircraft.

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So in addition to dealing with a plethora of noise complaints with people alleging there have been too much activities between eleven p.m. and seven a.m. by aircraft trying to avoid landing fees, this device would eliminate all of those --

LEG. BINDER:

Infrared?

LEG. GULDI:

It's infrared. It would eliminate those complaints, give us greater security and control as to what is going on with the airport and give us the beginnings of a system to collect whatever appropriate landing fees we ultimately can impose there.

LEG. TOWLE:

Legislator Guldi.

LEG. GULDI:

Yes.

LEG. TOWLE:

Just one follow-up. You made me I think of something. Obviously I'll support this, you mentioned this once before. I remember your discussion on that, that was probably right after the Newsday article in which we were blasted I guess for not billing people properly or not collecting payments properly or what have you. I just mentioned to the Chairman, maybe it would not be a bad idea in light of some of the comments made at the last meeting of the Legislature to ask somebody from Economic Development, because they oversee, I guess, the financial aspects of the airport and maybe the airport manager to come down and talk to us about the billing procedures, what we're doing now in the interim, the people who owe us rent, who don't owe us rent, you know, etcetera, et cetera, et cetera, so that those issues can be cleared up as opposed to lingering.

LEG. GULDI:

I agree, but unfortunately I believe the airport manager is still out of town at a conference during our next Legislative meeting, but the meeting cycle after that I'm sure will be an appropriate time to address all of those.

LEG. TOWLE:
Whatever is appropriate.

LEG. GULDI:
Ms. Fahey is here on behalf of Economic Development and I'd like the record to reflect she's nodding.

CHAIRMAN COOPER:
We have a motion to approve 1978 and a second. All those in favor? Opposed? Legislator Fisher asked to vote with the majority. 1978 is approved. (VOTE: 5-0-0-1) APPROVED

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CHAIRMAN COOPER:
Thank you very much. There being no further business, this meeting is adjourned.

(The meeting was adjourned at 11:39 A.M.)

{ } DENOTES BEING SPELLED PHONETICALLY

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